

SENATE BILL NO. 479

INTRODUCED BY J. ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE RATE OF THE COAL SEVERANCE TAX IS BASED UPON THE STATEWIDE QUANTITY OF COAL MINED DURING THE PERIOD OF THE PRECEDING JULY THROUGH JUNE; PROVIDING THAT IF SUFFICIENT COAL HAS NOT BEEN MINED, THE RATE IS APPROXIMATELY 1.3 TIMES THE EXISTING RATE; AMENDING SECTION 15-35-103, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-35-103, MCA, is amended to read:

**"15-35-103. (Temporary) Severance tax -- rates imposed.** (1) (a) A severance tax is imposed on each ton of coal produced in the state in accordance with the following ~~schedule~~ schedules:

(i) if the statewide quantity of coal mined exceeds the threshold in subsection (1)(c):

Heating quality	Surface	Underground
(Btu per pound of coal):	Mining	Mining
Under 7,000	10% of value	3% of value
7,000 and over	15% of value	4% of value

(ii) if the statewide quantity of coal mined does not exceed the threshold in subsection (1)(c):

<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
<u>(Btu per pound of coal):</u>	<u>Mining</u>	<u>Mining</u>
<u>Under 7,000</u>	<u>13% of value</u>	<u>4% of value</u>
<u>7,000 and over</u>	<u>20% of value</u>	<u>5.2% of value</u>

(b) The rate of taxation for coal that meets the following conditions is one-third the applicable rate set forth in subsection (1)(a), rounded to the nearest 10th of a percent:

(i) The coal is used for the production of electricity within the state in an electrical generation facility that was constructed after December 31, 2001, and before January 1, 2008.

(ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of power that it produces to Montana customers and distribution services providers at a cost to be set by the public

1 service commission that reflects the producer's cost of generating the electricity plus a reasonable return on  
 2 investment.

3 (c) (i) Before October 1 of each year, the department shall determine the total number of tons of coal  
 4 produced in Montana and sold during the period of the preceding July 1 through June 30. If the number of tons  
 5 sold exceeds 40 million tons, the rate of the coal severance tax is the amount set forth in subsection (1)(a)(i).

6 (ii) If any facility that burned Montana coal is not in operation due to mechanical failure or catastrophic  
 7 act during some portion of the coal sales period provided in subsection (1)(c)(i), the department shall determine  
 8 the average monthly sales of Montana coal to the facility during its normal operation and substitute that amount  
 9 times 12 for the actual annual coal usage of the facility.

10 (2) "Value" means the contract sales price.

11 (3) The formula that yields the greater amount of tax in a particular case must be used at each point  
 12 on the schedule.

13 (4) A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces  
 14 in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer  
 15 is liable for severance tax upon all coal produced in excess of the first 20,000 tons.

16 (5) In addition to the exemption described in subsection (4), a person is not liable for any severance tax  
 17 upon up to 2 million tons of coal that the person produces as feedstock for coal enhancement facilities in a  
 18 calendar year, except if more than 2 million tons of coal are produced as feedstock for coal enhancement  
 19 facilities in a calendar year, the producer is liable for severance tax on all coal produced as feedstock for these  
 20 facilities in excess of the first 2 million tons. (Terminates December 31, 2005--sec. 5, Ch. 318, L. 1995.)

21 **15-35-103. (Effective January 1, 2006) Severance tax -- rates imposed.** (1) (a) A severance tax is  
 22 imposed on each ton of coal produced in the state in accordance with the following ~~schedule~~ schedules:

23 (i) if the statewide quantity of coal mined exceeds the threshold in subsection (1)(c):

24 Heating quality	Surface	Underground
25 (Btu per pound of coal):	Mining	Mining
26 Under 7,000	10% of value	3% of value
27 7,000 and over	15% of value	4% of value

28 (ii) if the statewide quantity of coal mined does not exceed the threshold in subsection (1)(c):

29 <u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
30 <u>(Btu per pound of coal):</u>	<u>Mining</u>	<u>Mining</u>

1	<u>Under 7,000</u>	<u>13% of value</u>	<u>4% of value</u>
2	<u>7,000 and over</u>	<u>20% of value</u>	<u>5.2% of value</u>

3 (b) The rate of taxation for coal that meets the following conditions is one-third the applicable rate set  
4 forth in subsection (1)(a), rounded to the nearest 10th of a percent:

5 (i) The coal is used for the production of electricity within the state in an electrical generation facility that  
6 was constructed after December 31, 2001, and before January 1, 2008.

7 (ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of  
8 power that it produces to Montana customers and distribution services providers at a cost to be set by the public  
9 service commission that reflects the producer's cost of generating the electricity plus a reasonable return on  
10 investment.

11 (c) (i) Before October 1 of each year, the department shall determine the total number of tons of coal  
12 produced in Montana and sold during the period of the preceding July 1 through June 30. If the number of tons  
13 sold exceeds 40 million tons, the rate of the coal severance tax is the amount set forth in subsection (1)(a)(i).

14 (ii) If any facility that burned Montana coal is not in operation due to mechanical failure or catastrophic  
15 act during some portion of the coal sales period provided in subsection (1)(c)(i), the department shall determine  
16 the average monthly sales of Montana coal to the facility during its normal operation and substitute that amount  
17 times 12 for the actual annual coal usage of the facility.

18 (2) "Value" means the contract sales price.

19 (3) The formula that yields the greater amount of tax in a particular case must be used at each point  
20 on the schedule.

21 (4) A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces  
22 in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer  
23 is liable for severance tax upon all coal produced in excess of the first 20,000 tons."  
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25 NEW SECTION. Section 2. Applicability. [This act] applies to coal mined after December 31, 2003,  
26 with a rate based upon the statewide quantity of coal mined between July 1, 2002, and June 30, 2003.

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